

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)

Implementation of Section 302 of)
the Telecommunications Act of 1996)

Open Video Systems)

CS Docket No. 96-46

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**REPLY COMMENTS OF
THE METROPOLITAN AREA COMMUNICATIONS COMMISSION**

The **METROPOLITAN AREA COMMUNICATIONS COMMISSION** (hereinafter "MACC") on behalf of Washington County, Oregon and the cities of Banks, Beaverton, Cornelius, Durham, Forest Grove, Gaston, Hillsboro, King City, Lake Oswego, North Plains, Rivergrove, Sherwood, Tigard, Tualatin, and Wilsonville, respectfully submits these reply comments to the Federal Communications Commission ("Commission" or "FCC") in the above-captioned proceeding.

I. INTRODUCTION

On March 11, 1996, the Commission released a Notice of Proposed Rulemaking (FCC 96-99) ("Notice"), requesting comment on how it should implement the regulatory framework for open video systems ("OVS"). In response, the National League of Cities, the National Association of Telecommunications Officers and Advisors, the National Association of Counties, the U.S. Conference of Mayors, Montgomery County, and several cities (hereinafter "NLC"), filed joint comments containing specific proposals for implementing that framework.

In their comments, NLC identified four key principles that must guide the Commission in formulating its rules. First, the Commission's rules regarding the PEG and other Title VI requirements mandated by Congress for OVS must ensure that OVS operators will meet local community needs and interests. Second, the Commission must adopt nondiscrimination provisions

of 4

that ensure that all programmers will have truly open and affordable access to OVS and that prevent an OVS from becoming a cable system in disguise. Third, the 1996 Telecommunications Act does not permit cable operators to become OVS operators. Fourth, the Commission's rules must acknowledge the property interests that local governments hold in the local public rights-of-way.

MACC strongly supports NLC's comments and urges the Commission to follow these four principles in formulating OVS rules. MACC discusses below its experience in creating and implementing PEG obligations that meet critical local needs.

II. DISCUSSION

The Commission's statutory mandate in adopting PEG requirements for OVS is clear. As NLC notes, the Telecommunications Act of 1996 requires the Commission to establish PEG obligations for OVS that are consistent with local needs and interests, and to impose on an OVS operator obligations equivalent to those obligations imposed on cable operators. To fulfill these mandates, the Commission should, as proposed by NLC, require OVS operators "to match or negotiate," that is, to match each incumbent cable operator's PEG obligations, or to negotiate agreements acceptable to the affected communities.

The record in this proceeding demonstrates that local governments -- as franchising authorities and PEG programmers -- play a critical role in ensuring that local communications needs and interests are met.¹ Moreover, local governments, as the National Cable Television Association states, "are in the best position to deliver on the Act's intent to accomplish PEG access over open video systems."²

¹See e.g., Comments of the Below-Named Political Subdivisions of the State of Minnesota at 7 (franchising authorities have "considerable experience in successfully negotiating, creating and implementing...PEG obligations"); Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 34 ("The local franchising authority is the governmental entity best positioned to appreciate community needs and most experienced in the implementation of PEG access

rules"); and Joint Comments of Cablevision Systems Corporation and the California Cable Television Association at 21 ("Congress certainly understood that PEG access requirements are now imposed by localities to meet critical localism goals").

²Comments and Petition for Reconsideration of the National Cable Television Association, Inc. at 33. See also, Comments of MFS Communications Company, Inc. at 27 ("The manner in which OVS operators and/or their customer programmers comply with the PEG obligations should generally be worked out between the programmer and the local government entity that oversees the implementation of these rules for cable operators").

In the **MACC** jurisdictions we have developed, with assistance from our cable operator, a very comprehensive, community-oriented PEG Access program. Currently, **MACC** contracts with Tualatin Valley Community Access (hereinafter "TVCA") to manage PEG services for over 100,000 cable households. Financial support for TVCA comes primarily from the cable operator, TeleCommunications of Oregon, with additional support from **MACC** and our local jurisdictions in an amount equal to 17% of the franchise fee revenues. This unique partnership has allowed TVCA to become an important community resource to our citizens. TVCA programs 10 access channels including channels for use by the public, government agencies and area educational institutions. In addition, TVCA also programs the Challenge Channel which provides the only full time hearing impaired programming on the cable system. Quality live and taped coverage of six of our jurisdictions city council/county commission meetings, specialized government programming, community events, talk shows, local election coverage and educational programming can be found in quantity on TVCA's channels. TVCA has also begun development of a "community media center" to provide training and increase media literacy in our community. This also includes developing classes in, and providing community access to, the Internet. Through managing our community PEG Access program, TVCA has become a leader in providing communications resources in our communities and serves as a model to other programs across the country.

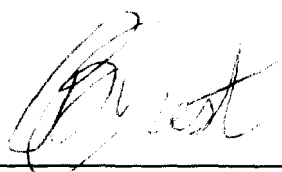
By adopting NLC's proposal, the Commission will ensure that PEG access continues to serve local needs and interests in our member jurisdictions, and will satisfy the Commission's statutory mandate to impose equivalent obligations on OVS and cable operators.

III. CONCLUSION

MACC respectfully requests the Commission to adopt a framework for OVS consistent with the proposals and principles recommended by NLC et al. in their comments.

Respectfully submitted,

**METROPOLITAN AREA
COMMUNICATIONS COMMISSION**

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Dated: April 10, 1996